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Letter dated 8 February 2008 from the Secretary-General to the President of the Security Council

I attach for your attention a letter dated 4 February 2008 from Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia (see annex). President Pocar gives further explanation of the request set out in his letters of 12 December 2007 (S/2007/788) and 14 January 2008 (S/2008/44) concerning the appointment of additional ad litem judges to enable the Tribunal to start conducting new trials in furtherance of the Tribunal's completion strategy.

I would be grateful if you could draw President Pocar's letter to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

08-24192 (E) 190208

Annex

Letter dated 4 February 2008 from the President of the International Tribunal for the Former Yugoslavia to the Secretary-General

I refer to my letter of 14 January 2008, which was circulated to the members of the Security Council under cover of your letter to the President of the Security Council dated 22 January 2008. That letter clarified an earlier letter dated 12 December 2007, which was circulated to members of the Security Council under cover of your letter to the President of the Security Council dated 31 December 2007. In both of those letters, I had the honour of referring to the 116th plenary meeting of the fifty-ninth session of the General Assembly, on 24 August 2005, during which 27 ad litem judges of the International Tribunal for the Former Yugoslavia were elected for a term of four years. By virtue of that resolution and pursuant to Security Council resolution 1329 (2000), I advised that I would be requesting the appointment of additional ad litem judges in order to allow the Tribunal to start two new trials. One of those trials is currently scheduled to commence on 27 February 2008, and the other on 7 March 2008.

In my previous letters I explained that these additional appointments were necessary for the Tribunal to achieve our objectives within the completion strategy and to ensure the right to a fair and expeditious trial, but that they would also amount to a temporary increase of the number of ad litem judges from the maximum of 12 at any one time, as established by article 12 (1) of the statute of the International Tribunal. I further advised that should you be willing to seek an authorization from the Security Council for the assignment of these additional ad litem judges, the number of ad litem judges would most likely return to the statutory maximum of 12 by September 2008, when the close of the Tribunal's first multi-accused case is scheduled. In total, I am seeking authorization to appoint on a temporary basis a maximum of 16 ad litem judges. However, I intend to try to keep the increase to a maximum of 15 at any one time.

While I can reasonably predict that the number of ad litem judges will return to the statutory maximum of 12 by September 2008, there are a number of unforeseen factors that can intervene to delay a trial, such as illness of an accused, which are not reasonably within my control. Upon this basis, I consider it would be prudent not to specify a precise time at which the Tribunal will return to its statutory maximum of 12 ad litem judges.

Further, it is my intention to assign new ad litem judges to more than one case, in accordance with my past practice, which will see the number of ad litem judges fall below the statutory maximum of 12 towards the end of 2008, providing unforeseen circumstances do not hinder the currently anticipated progress of the Tribunal's trials. I note that this practice of assigning ad litem judges to more than one trial at a time allowed the Tribunal to operate at maximum capacity with only 10 ad litem judges for a substantial period during 2006-2007.

(*Signed*) Fausto **Pocar**
President